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PP RUEHCHI RUEHDT RUEHHM RUEHNH
DE RUEHBK #1684/01 1950717
ZNY CCCCC ZZH
P 140717Z JUL 09
FM AMEMBASSY BANGKOK
TO RUEHC/SECSTATE WASHDC PRIORITY 7526
INFO RUCNASE/ASEAN MEMBER COLLECTIVE
RUEHKO/AMEMBASSY TOKYO 1755
RUEAIIA/CIA WASHINGTON DC
RUEATRS/DEPT OF TREASURY WASHINGTON DC
RUCPDOG/DEPT OF COMMERCE WASHINGTON DC

C O N F I D E N T I A L SECTION 01 OF 03 BANGKOK 001684

SIPDIS

E.O. 12958: DECL: 07/13/2024
TAGS: [PREL](#) [ECON](#) [ETRD](#) [TH](#)
SUBJECT: THAI DEPUTY PRIME MINISTER PLEDGES GREATER
OPENNESS ON CUSTOMS CONCERNS

REF: A. BANGKOK 1574 (FINANCE MINISTER KORN DISCUSSES
CUSTOMS ISSUES)
[1](#)B. BANGKOK 1338 (AMBASSADOR MEETS WITH DEPUTY
COMMERCE MINISTER)
[1](#)C. BANGKOK 1305 (DEPUTY PRIME MINISTER SUTHEP ON
CUSTOMS)
[1](#)D. BANGKOK 1223 (FOREIGN MINISTER KASIT ON CUSTOMS
AND COMMERCIAL ISSUES)
[1](#)E. BANGKOK 707 (PM ABHISIT ENGAGES AMERICAN BUSINESS)
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COMMERCE MINISTER)
[1](#)G. 08 BANGKOK 3774 (AMBASSADOR MEETS WITH COMMERCE
MINISTER)
[1](#)H. 08 BANGKOK 3747 (FINANCE MINISTER ON US BUSINESS
CONCERNS)

Classified By: Ambassador Eric G. John, Reasons 1.4 (b) and (d)

[1](#)1. (C) Summary: As part of the Mission's campaign to improve the treatment of American firms in Thailand, Ambassador John, accompanied by representatives of the American Chamber of Commerce in Thailand, raised July 2 with Thailand's Deputy Prime Minister Korbsak Sabhavasut issues of concern to the U.S. business community. The focus of discussion was the negative impact Thailand's customs law and draft revised customs law have, and will continue to have, on Thailand's business and investment climate. The Ambassador also raised Thailand's excise tax and price support regimes as issues which, if improved, would help increase Thailand's competitiveness. Korbsak, responsible for the Thai government's economic-related ministries, pledged to have the draft revised customs law returned to the Finance Ministry's Customs Department so that the business community, led by groups like AMCHAM, can have the opportunity to provide comments on the draft. While not making promises on the outcome of a renewed consultative process, he expressed gratitude for hearing these concerns directly. Korbsak also informed of the Thai government's intent to go on-line in October with a "one-stop" window in the Prime Minister's office to facilitate business across ministries. End Summary.

[1](#)2. (C) Comment: Like Finance Minister Korn, with whom the Ambassador met June 29 (ref A), Korbsak appears to "get it," in the sense of the importance of improving Thailand's competitiveness in the face of competition from other nations in the region. He also appeared to be a straight shooter, unafraid to challenge his staff for information during the meeting: after receiving a mumbled, confused answer to one of his questions, he stated plainly to the Ambassador "As you can see, I can't get the facts." Like Korn, Korbsak's apparent willingness to address our concerns will be challenged by his ability make the systemic changes needed to do so. Given the personal financial interest in maintaining the status quo of key figures in the Thai bureaucracy, including some who are members of other parties in the

Abhisit government,s coalition, great leaps forward may be hard to come by.

13. (C) Comment continued: Still, Korbsak,s commitment to renewing the consultative process regarding the draft customs law is encouraging. What,s more, it is clear that the Mission,s continuous effort to ensure the fair and transparent treatment of U.S. firms in Thailand continues to show appreciable results (see reftels). This meeting with Korbsak was the highest-level to date in the Embassy,s "Meet the Minister" series in which the Ambassador engages key economic-related Cabinet-level officials while accompanied by private U.S. business representatives. Our strategy, teaming up with business leaders so that they can directly address the top decision makers in the Thai government on the issues of most concern to them, appears to be working. We will continue our full court press through the Meet the Minister initiative and other efforts to engage the Thai government at all levels. End Comment.

14. (SBU) Ambassador John met with Thailand's Deputy Prime Minister Korbsak Sabhavasuthe morning of July 2 to discuss issues of concern to the U.S. business community, in particular Thailand,s customs regime. The meeting was one in a series of "Meet the Minister" events in which the Ambassador is joined by members of the American business community in an approach to relevant ministries to discuss issues of concern. (NOTE: Soon after taking office, Prime Minister Abhisit agreed to the Ambassador's suggestion for the program, understanding it to be an opportunity to improve the Thai government,s transparency and Thailand's business climate. End Note.) The Ambassador was accompanied by

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members of the Embassy,s senior economic and commercial staff as well as the President and Executive Director of the American Chamber of Commerce (AMCHAM) Thailand, David Carden of FedEx and Judy Benn, respectively. Korbsak, one of three Deputy Prime Ministers, oversees the Royal Thai Government's (RTG) economic team that includes the Ministries of Finance, Commerce, and Industry. He was accompanied by senior officials from various ministries, including from the Ministries of Foreign Affairs, Commerce, Labor, and Finance.

15. (C) The Ambassador started the meeting with a description of his recent visit to the United States with the U.S.-ASEAN Business Council. As explained to the Finance Minister Korn on June 29 (ref A), the Ambassador told Korbsak that he believes there is a distinction between the recent political turmoil in Thailand and the Thai economy. With the severe exception of the PAD takeover of the airport in late 2008, the turmoil has not affected daily economic life and is, rather, part of a process of defining the bounds of discourse in Thailand and learning the limits of the rule of law. For American businesses, the Ambassador explained, politics largely is a diversion. Their real concern is the rule of law, which the Royal Thai Government (RTG) should understand is critical to Thailand's business and investment climate.

The Severely Flawed Thai Customs Law -- and Draft Law

16. (C) The Ambassador and Korbsak engaged in a productive, collegial discussion of the broad customs-related concerns of American firms active in Thailand. The discussion focused on the severe problems in the existing Thai customs law, which have led to, and continue to lead to, gross anomalies on how foreign companies can operate in Thailand (NOTE: ref A explains the procedural concerns created by the existing law, and provides details on specific cases of American firms. End Note.) The Ambassador pointed out, with the AMCHAM representatives chiming in for emphasis, that the law's procedures are of concern to all foreign firms, not just American, and impact companies of all sizes. As the Ambassador and senior Embassy officials have done in meetings with Deputy Prime Minister Suthep, Finance Minister Korn, and Trade Representative Kiat (reftels), the Ambassador

highlighted the case of Amway, which exemplifies the problems faced in this area: potentially huge financial payouts, without just cause, to government officials who have no incentive to provide for an objective appeal. AMCHAM President Carden noted that AMCHAM is working closely with both the Thai Chamber of Commerce and Board of Trade, evidencing the level of concern that the Thai business community has about Thailand's customs regulations and procedures.

17. (C) After acknowledging the cooperation the Ministry of Finance's Department of Customs provides in other areas (e.g., on the Container Security Initiative, Megaports Initiative, and on the implementation of a paperless customs system), the Ambassador (and AMCHAM representatives) explained that of equal concern to the existing customs law is the draft revised customs law which, in its current form, includes provisions (e.g., regarding penalties and customs valuations) that are not in line with best-practice approaches outlined by the World Customs Organization and Kyoto Convention. They explained that the Thai government did not provide the private sector with an appropriate comment period through which to suggest improvements to the law and that doing so could help improve Thailand's business and investment climate. Carden explained that the Customs Department provided the joint foreign chambers of commerce (including AMCHAM) a Thai language draft of the law only about ten days before it was sent forward to the Finance Minister. After translating the law and circulating it to members for review, AMCHAM then presented a comprehensive paper to the Customs Department for consideration, only to be told the draft law had already gone forward.

18. (C) Deputy Prime Minister Korbsak responded with empathy to these concerns, noting that the Thai government had heard them before and sought to find solutions. He pointed to two specific customs-related cases of Japanese firms, both of which the Thai government had resolved favorably for the Japanese. Referring to these cases as well as to the transfer of the former Customs Director General to another position in the Finance Ministry with an inactive portfolio, he stated that "if the government truly tries, things can get done," and that since bureaucrats sometimes interpret laws differently than they should, higher-level officials must sometimes intervene to get bureaucrats to make appropriate decisions. The Ambassador responded that while short-term

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changes are welcome, the problem is systemic in nature.

19. (C) As In an unplanned (and interesting) exchange, Korbsak called on members of his staff in the room to explain to him the disposition of the draft customs law. After a brief exchange, he confirmed to the Ambassador that the draft revised customs law had not already been sent back to the Department of Customs, for additional revisions, by the Thai Cabinet Secretary's office (as he had previously thought). Korbsak then assured the Ambassador that the draft revised law would be sent back, specifically so that the business community would have an opportunity to provide comment. He also stated he would personally look into the customs law and into the specific case of Amway (NOTE: The company name "Amway," and other specific company names were never spoken in the meeting, although individual case details were discussed. End Note).

Additional Concerns: Excise Taxes, Price Supports

10. (C) The Ambassador and AMCHAM representatives raised additional issues of concern to the American business community, namely improperly levied excise taxes and price supports. With regard to excise taxes, the Ambassador noted that even companies operating from nations with free trade agreements with Thailand complain that their excise taxes inexplicably go up as their import duties go down, so that they are penalized all the same. On price supports, he

explained how the high cost of energy for the industrial sector in Thailand makes the cost of production much greater here than in other nations in the region, impacting industries ranging from soft drinks to snack foods and from glass to tires. Pointing to the case of Guardian Glass, the Ambassador explained that the imposition of what amounts to a high indirect tax on the firm (through energy costs approximately 125 percent higher than those found elsewhere in the region) endangers the jobs of thousands of Thais employed by the firm, as well as tens of thousands of others.

It also decreases Thailand's competitiveness. Korbsak thanked the Ambassador for explaining these issues to him from the U.S. perspective. Pointing to positive steps being taken to improve Thailand's competitiveness, he also informed that the Thai government hopes to open the "one-start" window in the Prime Minister's office in October to facilitate business and investment.

JOHN